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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/254,407	02/07/00	GRADY M	JJM-399

HM12/0906

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EXAMINER	
WHITE,E	
ART UNIT	**PAPER NUMBER**
1623	4

DATE MAILED: 09/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/254,407	Applicant(s) GRADY et al.
	Examiner Everett White	Group Art Unit 1623

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *three* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-11* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-11* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

35 U.S.C. 112, SECOND PARAGRAPH REJECTION

1. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 1-11 provides for the use of a sulfated polysaccharide selected from the group consisting of sulfated cellulose derivatives and sulfated polyanionic polysaccharides for the preparation of the treatment of a chronic wound, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

35 U.S.C. 101 REJECTION

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd.* v. *Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

IMPROPER MULTIPLE DEPENDENT CLAIMS

5. Claims 8-12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n).

35 U.S.C. 102 REJECTION

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Easton et al (European Patent No. 140,596).

The Easton et al reference discloses a wound dressing having a wound contacting layer form from a complex that includes a biodegradable protein, or a proteolytic degradation product thereof, with a polyanionic plant polysaccharide. Easton et al further discloses that a surgical implant can be formed from the complex. Easton disclosed that the term "surgical implant" includes sutures, blood vessel grafts, artificial organs, soft tissue implants and protheses (see page 2, 1st paragraph). Examples of the polyanionic plant polysaccharides disclosed in the Easton et al reference include alginates, carrageenans, celluloses such as carboxymethyl cellulose, xanthan gum and sulphate dextrans (see page 4, lines 21-34). Also see page 1, second paragraph of the Easton et al reference which sets forth a number of polyanionic polysaccharides that are well known in the art to be useful in a wide variety of medical and surgical applications which include hyaluronic acid, chondroitin 4-sulphate, chondroitin 6-sulphate, dermatan sulphate, keratan sulphate and heparan sulphate. The above description of a wound dressing having a wound contacting layer form from a complex that comprises a polyanionic plant polysaccharide anticipates the instantly claimed invention which is directed to the use of a sulfated polysaccharide selected form the group consisting of sulfated cellulose derivatives and sulfated polyanionic polysaccharides for the preparation of a composition for the treatment of a chronic wound.

8. All the claims are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to E. White whose telephone number is (703) 308-4621. The examiner can normally be reached on Monday-Friday from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Geist, can be reached on (703) 308-1701. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

E. White
White
September 1, 2000

GARY GEIST
SUPERVISORY PATENT EXAMINER
TECH CENTER 1600